

## Welcome to the Insurance Ireland Anti-Fraud Forum Newsletter

### ABOUT US

The Anti-Fraud Forum at Insurance Ireland (formerly the Irish Insurance Federation) has played a significant role in addressing fraud within the insurance industry. Over the years, it fostered an industry approach to dealing with fraud through the facilitation of meetings and networking amongst anti-fraud practitioners.

Over the last eighteen months, the level of involvement and co-operation by companies in dealing with fraud has increased significantly. This follows a decision in mid-2012 to change the operational structure of the anti-fraud group by electing an annual rotating chairperson from each company to lead the group. Allied to this, the anti-fraud group has become more involved in setting the agenda and developing initiatives that have helped expand its role in fighting fraud.

During this period, we have achieved a number of significant milestones and achieved very good participation levels at meetings. We have also been successful in the following areas:-

- Published the first comprehensive contact list of people involved in claims special investigations units (SIU) at each insurer in October, 2012.
- Expanded the list to include staff involved in front-end application fraud in early 2013. This helped expand the network and assisted people to identify who to call at other insurers when dealing with fraud in sales and underwriting.
- Organised the 1st industry wide SIU training day in October, 2012. Almost 50 people attended this with speakers from the Gardai, and other industry experts.
- Published a newsletter in February, 2013 that focused on insurance fraud.
- Held a 2nd industry training day in April, 2013 with over 60 attendees. The training was CPD accredited which helps build the knowledge and professionalism of staff involved in SIU activities.

- We held the first focused meeting dealing with sales and underwriting fraud in October, 2013. This helped expand the activities of the group into the area of application fraud as the group has traditionally focused on claims fraud.

Building on this success, the Insurance Ireland Anti-Fraud Forum organised the inaugural Insurance Fraud conference on 20th November in the Westin Hotel, Dublin. Speakers from the UK and Ireland shared their expertise and knowledge in the areas of fraud psychology, prevention, deterrence and detection. The conference was a tremendous success with over 150 attendees. Feedback from the conference has been very positive and we have already begun setting the scene for our next conference in 2014.

Going forward, the Insurance Ireland Anti-Fraud Forum will continue to be at the forefront in dealing with issues related to fraud in the insurance industry. This includes highlighting the importance of implementing the information sharing aspects of the revised **Code of Practice on Data Protection for the Insurance Sector** that was issued in June, 2013. Information sharing is an important element of the work that's undertaken by all SIU departments when investigating fraud. We will continue to push this as a priority as it reduces the risks and uncertainty for people who work in SIU and need to share information.

I would like to thank my colleague, Triona Purcell, former Vice-Chairperson of the group, who contributed immensely to this newsletter and assisted with organising the conference. I would also like to thank the members of the Insurance Ireland Anti-Fraud Forum for their continued support and involvement as this helps ensure the success of the group in dealing with fraud at an industry level.

Finally I would like to thank Insurance Ireland for facilitating the Anti-Fraud Forum and for all the help in organising the fraud conference.

**Tom O'Brien, Liberty Insurance**  
**Chairman, Insurance Ireland Anti-Fraud Forum**

## **THE FIGHT AGAINST INSURANCE FRAUD & THE IMPORTANCE OF CLAIMS VERIFICATION**

**David Fitzgerald, Head of Claims at Allianz Ireland** offers his perspective on the fight against insurance fraud, and the important role intermediaries can play in claims verification.

There has been an amount of recent media commentary suggesting that a current trend for Insurers is very much towards examining the small print in their policies with a view to using all and every means at their disposal to avoid paying claims. I believe this is an incorrect and an unfair perception of the reality. Here at Allianz we want to pay legitimate claims quickly and fairly and this principle certainly is at the heart of our claims philosophy.

However, particularly in the current economic climate, we do need to recognise that the making of false or exaggerated claims by customers and third parties alike is very much a reality, and indeed has been increasing. Against this background it is vital that claims are properly screened through a fair and reasonable verification process (e.g. policy cover, claims circumstances, quantum, etc.). Verifying the validity of a claim prior to making a decision on its outcome is also a Consumer Protection Code 2012 requirement.

Whilst we want to pay legitimate claims quickly and fairly we are also determined to weed out fraudulent and grossly exaggerated claims and make no apologies for doing so. It is the right thing to do, and is necessary to protect the vast majority of honest customers that make up the wider insurance pool. We operate a zero tolerance policy in this regard and where a claim has been determined to be fraudulent in any respect, the Insured will not be entitled to any benefit under the Policy.

The vast majority of claims presented can be promptly paid once the checks that are appropriate to the claim type have been carried out. It is not our desire to engage in lengthy and frustrating correspondence involving additional and never ending lists of questions to which we require answers. We will review claims that are presented to us in a timely manner and will set out in plain English the questions to which we require answers &/or request any additional documentation that we require. We will follow up with a reminder in writing where appropriate and will make a decision on our position one way or the other in a reasonable period of time, including our reasons for the decision.

Of course there are occasions where we are provided with such little information or documentation at the outset that its subsequent production may demand further questions, this is where intermediaries can really help policyholders to help themselves. If every effort can be made to provide us with appropriate information upfront it will ultimately save everyone time. The missing requirements will inevitably be sought which may then lead to further questions which will unnecessarily prolong the life of the claim, and may frustrate the claimant.

A good example of this is late notification. Most Insurers view this as a red flag indicator yet I am surprised by how many late notifications we receive without any acknowledgement whatsoever that it is a late notification, never mind providing an explanation for it. If there is an expectation that these claims will be processed without question, this is misplaced and explanations will certainly be sought. I can assure you that it helps to put a claim in a much more positive light at the outset if a late notification is readily and voluntarily acknowledged, and an explanation provided without us having to raise the issue.

To conclude, we in Allianz are in the claims payment business and not the claims avoidance business. In recognising that the claims process can be a stressful time for claimants we also need to remember the obligations that exist on all sides, and it is incumbent on Intermediaries and Insurers to work together to make the process as easy, as transparent, and as painless as we can for claimants.

## **TAXI CRASH “SETUP”**

**Alan Synnott, Mackenzie and Co Solicitors**

In June 2009, a father and son duo were involved in a hit and run accident while being driven by a taxi bringing the son to the Four Courts where he was awaiting a dangerous driving charge for which he was later jailed. The son, who had many other convictions, some for car theft, sued the taxi driver and the MIBI claiming damages.

However, the taxi driver told the Court that while the son was in a shop his father told him to drive via the Fonthill Road. Later the son took a call during which the taxi driver heard him say “We’re turning on to the Fonthill Road now” before his taxi received a tremendous impact from behind.

The Judge accepted that the father told the taxi driver to take the long route while the son was in the shop, yet while on the phone his son was able to tell the caller they were going to

turn on to the Fonthill Road. He could only have known this if it had already been arranged. The Judge dismissed the son's case and his claim for €38,000 in damages and ordered that he pay the costs of the proceedings which was estimated to be of the order of €10,000.

This case highlights the work by the MIBI to thoroughly investigate and prevent fraudulent claims.

## **SUCCESSFUL OUTCOME TO CASE UNDER SECTION 26 OF THE CIVIL LIABILITIES AND COURTS ACT 2004**

### **Tom O'Brien, Liberty Insurance**

The background to this case is that the Policy Holder (PH) was involved in a traffic accident in 2009 at a roundabout. The PH rear ended a car that had two passengers in it. The PH accepted liability, however problems arose when five people came forward claiming injuries. On the basis that it was a potentially fraudulent claim, a decision was made to defend it fully.

A Solicitor was instructed to deal with all the cases and a Barrister was retained also. On the day of Court, the Plaintiff's Solicitor indicated that he would accept a nominal figure for all the claimants, but it was decided to run the case in Court. As a tactical measure, it was decided by the Barrister to make an application under Section 54 of the Civil Liability and Courts Act, 2004 to limit the attendance of the witnesses. They could only enter the Court when they were called to give their evidence. This meant that they could not hear the evidence or cross examination of the previous witnesses. The Plaintiff's Council objected to this application, but the Judge accepted the request and ruled accordingly.

The first witness was questioned very carefully and thoroughly about the accident and events leading up to the accident. This included detailed questions about the other occupants of the vehicle. For example, where did they meet? Where were they going? Where had they visited, etc?

The other witnesses were called individually and experienced similar cross examination. A picture emerged where the witnesses offered totally different versions of events leading up to the accident.

It was apparent to the Court that the Plaintiff and witnesses had rehearsed and agreed some elements of "the story", but when pressed on details surrounding the event, their stories differed.

They were trying to mislead the court and were caught out as their stories did not match.

The PH, by comparison, gave evidence in a factual way and made a very positive impression on the Court. The PH was adamant that there were only two people in the car and that the collision was very minor. The Judge seemed impressed with the PH's evidence and subsequent comments by the Judge reinforced this impression.

At the end of the case, the PH's Counsel requested the Court to dismiss the case under Section 26 of the Civil Liabilities Act and Courts Act, on the grounds that the Plaintiff knowingly gave false or misleading material evidence. The Judge accepted this request and in his ruling, dismissed the case under Section 26 of the Act.

## **FURTHER INFORMATION ON THE CIVIL LIABILITY AND COURTS ACT, 2004**

Sections 25 and 26 of the Civil Liability and Courts Act, 2004, were introduced with the aim of reducing and deterring fraudulent claims in personal injuries actions and to ensure that all parties to an action are mindful of their obligation to be entirely truthful at all times.

**Section 25** creates an offence for anyone to knowingly give false or misleading material evidence in a personal injuries action to a solicitor or to an expert, if done with the intention of misleading the court.

### **Section 26 (Fraudulent Actions) is similar to Section 25 but applies only to Plaintiffs**

If a Plaintiff, in any action, knowingly gives false or misleading material evidence (or swears a false and misleading verifying Affidavit), then the court shall dismiss the Plaintiff's claim unless this would result in an injustice being done. Again, it must be done with the intention of misleading the court.

**Section 29** of the Act provides for the following penalties;

- A fine not exceeding €100,000, or imprisonment for a term not exceeding 10 years, or both upon conviction on indictment in the Circuit Court; or
- a fine not exceeding €3,000, or imprisonment for a term not exceeding 12 months, or both upon summary conviction in the District Court.

## **FIRST PROSECUTION UNDER THE CIVIL LIABILITIES AND COURTS ACT, 2004**

On 8 October 2013 the Dublin Circuit Criminal Court imposed the first criminal prosecution under Section 29 of the Civil Liability and Courts Act, 2004, for providing false information during personal injury proceedings. This is the first prosecution since the Act came into effect 9 years ago.

The Plaintiff in the personal injury proceedings was involved in a car crash in August 2009. He was treated for his injuries in hospital. He returned to the hospital several times complaining of back pain and reduced movement of his spine.

He sued the car owner and was awarded €7,500 in the Circuit Court. The Defendants appealed this decision to the High Court. In the High Court, DVD evidence was presented of the Plaintiff engaging in mixed martial arts contests (cage fighting) from shortly after the date of the crash until the trial date.

Mr. Justice Kearns found in favour of the Defendants, dismissed the case and ordered that the case be handed over to the DPP.

As a follow up, the Plaintiff was arrested in 2012 and he was subsequently prosecuted and convicted under the Act in October, 2013.

## **CONFERENCE REPORT: INSURANCE FRAUD - MANAGING RISK AND PREVENTING FRAUD, 20TH NOVEMBER 2013**

### **Tom O'Brien, Liberty Insurance Chairman of the Insurance Ireland Anti-Fraud Forum**

The Anti-Fraud Forum at Insurance Ireland assisted in arranging a half day conference on Insurance fraud. This was the first conference of its type where the major insurers, under the banner of Insurance Ireland, got together to highlight fraud in the insurance Industry.

The Conference was opened by Kevin Thompson, CEO of Insurance Ireland. He stressed the importance of events like this in highlighting fraud and demonstrating what the industry is doing about it. Kevin also released the latest data on the cost of fraud which, at €200m in 2012, is a significant cost to the industry in Ireland. Fraud is not a victimless crime and this loss adds to the cost of insurance for everyone.

Tom O'Brien, Liberty Insurance, provided the keynote address. With over 150 industry participants attending the conference, their presence was an indication of how seriously companies treated fraud. Insurance companies devote considerable resources to identifying and defeating fraud in all its guises.

Fraud is a multifaceted issue and occurs in many different ways. It can occur at policy inception time when people mis-represent their information to achieve better quotes and cheaper policies. The use of stolen or compromised credit cards to pay for insurance is another element of fraud. Claims fraud is traditionally the area that people think about when we mention insurance fraud, however, companies must have a holistic approach to dealing with fraud as it's a much wider issue than just dealing with dodgy claims.

Tom commented that at an industry level, it's important to emphasise that companies need to cooperate with each other and adopt a "zero tolerance" approach to dealing with fraud. After all, fraudsters don't care who they get their money from. They will attack those with the weakest defences and will play companies off against each other to achieve their aims.

Insurance Ireland is very aware of the need for cooperation. They have worked with the industry to develop a group that focuses on fraud. The Anti-Fraud Forum was set up by Insurance Ireland for this purpose and is committed to minimising the impact of fraud in the industry.

The Anti-Fraud Forum includes representatives from each of the insurance companies in the Irish market. It meets on a regular basis to discuss issues that affect the industry. It also plays an important role in providing training for staff that are involved in dealing with fraud.

Tom, as Chairman of the Forum, looks forward to continued support for The Anti-fraud Forum, especially as the group expands its role to include more emphasis on application fraud and payments fraud. He highlighted the work that the Insurance Fraud Bureau (IFB) does in the UK and the fact that it was set up by the Association of British Insurers (ABI). The IFB uses extensive IT systems to collect and analyse key information from all insurers in the UK market. It uses considerable computing power to analyse this "big data" to identify fraud networks and produce fraud alerts for the industry. The Insurance Fraud Bureau has been very successful in doing this and Tom suggested that Ireland can learn from the experience of the IFB in the UK. If we could set up an Irish equivalent of the IFB, it would help achieve a more coordinated approach to dealing with fraud in Ireland.

Tom also highlighted the close working relationship between the Police and the Insurance Industry in the UK. The industry finances a dedicated team of police officers who focus on dealing with Insurance Fraud. This team is called the "Insurance Fraud Enforcement Department" with a strong emphasis on "enforcement".

The Anti-Fraud Forum, would like to explore opportunities to develop a similar group within the Gardai, that would be dedicated to dealing with insurance fraud in Ireland. This would build on the already close relationship we have with the Gardai.

Tom expressed the concern that there would be significant hurdles to be addressed in developing organisations like the IFB and IFED in Ireland, however, given the cost of fraud that Kevin Thompson spoke about, the industry and society would benefit from this.

Following his discussion, Tom introduced the speakers which included:-

1. Prof. Martin Gill who is based at Perpetuity Research & Consultancy in the UK. Martin posed the question, "Why do people commit fraud"? This session focused on fraud from the perspective of a Criminologist. It was a very interesting and sometimes, humorous view of why people get involved in fraud.
2. Stephen Dalton, who is Head of Intelligence at the Insurance Fraud Bureau in the UK, provided some background and details on the development of the IFB. He spoke about the links to other organisations including the Police through the IFED. The IFB has become a very important organisation in

helping to combat insurance fraud in the UK.

3. David Fitzgerald, who is Head of Claims at Allianz Ireland, spoke about their experience of fraud and the resources that Allianz put in place to counter fraud. He stressed that staff should be very vigilant, particularly when assessing claims to identify evidence that may indicate potential fraud. David emphasised that Insurance companies are in the business of looking after customers when claims arise. They are not in the "Claims Avoidance" business, however, it is important that we screen claims in a fair and reasonable way to guard against fraudulent activities. After all, we have a moral and regulatory obligation to ensure that we protect innocent customers from fraudulent claims that increase the cost of insurance for everyone.
4. Michael O'Donoghue, who is Director of Claims at Loss adjusters, Cunningham Lindsey spoke about his experience as a Loss Adjuster in dealing with fraudulent claims. He provided a wealth of experience and interesting examples of frauds that he dealt with over the years.

Following the presentations, there was a short Q&A, before the conference finished. Tom thanked the presenters and the participants who attended this successful conference. He also thanked Insurance Ireland for hosting the event.

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Insurance Ireland's Insurance Fraud Conference, 20 November 2013 | Insurance Fraud – Managing Risk and Preventing Fraud



Michael Horan, Insurance Ireland with speakers Stephen Dalton, Head of Intelligence, Insurance Fraud Bureau, UK, David Fitzgerald, Head of Claims, Allianz Ireland, Michael O Donoghue, Director, Claimslink, Cunningham Lindsey Ireland, Professor Martin Gill, Perpetuity Research and Consultancy International, UK, Tom O'Brien, Fraud Manager, Liberty Insurance and Chair of Insurance Ireland Anti-Fraud Forum



Ciaran Phelan, Irish Brokers Association and Kevin Thompson, Insurance Ireland



Catharina Gunn and Gerry Walsh - An Garda Siochana



Tony Culley, Allianz, Niamh Moran, FBD and Owen Fitzpatrick, Allianz



Michale Bannon, Aviva, Kevin Thompson and Brian Hughes, RSA



Dean Dowling, Liberty Insurance and Shane Mulligan - AIG



A full house at the Insurance Ireland Fraud Conference



Jennifer Long and David Snow - Zurich Insurance



Insurance Fraud!

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HE'S CHEATING**

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